

**FEDERAL ELECTION COMMISSION**  
**FACTUAL AND LEGAL ANALYSIS REGARDING ALLEGED**  
**COORDINATION OF EXPENDITURE BY SWIFT BOAT VETERANS AND**  
**POWs FOR TRUTH WITH BUSH-CHENEY '04**

**MUR 5525**

**Respondents:**     Swift Boat Veterans and POWs for Truth  
                         f/k/a Swift Boat Vets and POWs for Truth  
                         f/k/a Swift Boat Veterans for Truth Swift Boat Vets and POWs for Truth  
  
                         Bush-Cheney '04, Inc. and  
                         David Herndon, in his official capacity as treasurer

On February 17, 2005, the Federal Election Commission found reason-to-believe that these respondents may have violated the Act by making and receiving excessive in-kind contributions via coordinated expenditures. These findings were based primarily on information relating to the role of an individual (Kenneth Cordier) who served as an agent of both organizations, and reports of an event in Florida jointly sponsored by SBVT and Bush-Cheney '04. *See* SBVT and Bush-Cheney '04 Factual and Legal Analyses. Following receipt of the MUR 5525 Complaint, both Respondents made cursory denials, but failed to provide detailed information needed to resolve the underlying questions of fact. As explained below, following an investigation, the Commission decided to take no further action as to these allegations.

In response to the Commission's reason-to-believe findings, both SBVT and Bush-Cheney '04 provided detailed information, in the form of affidavits, that addressed the factual questions that were unanswered at the time of the RTB findings. Kenneth Cordier denied that he coordinated activities or expenditures between Bush-Cheney '04 and SBVT. explained in his affidavit that he had a very limited role with Bush-Cheney

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'04 serving in an "honorary and volunteer capacity." Cordier Aff. at 1. He claimed that the only information he received concerning Bush-Cheney '04 was publicly available material. *Id.* This was confirmed in a sworn declaration by David Castillo, the Bush-Cheney '04 Coalitions Director-Veterans, Labor, First Responders, who said Cordier's role with Bush-Cheney '04 was "purely honorary" and that he was only given "publicly available information." Castillo Decl. at 2. As to SBVT, Cordier stated that his involvement with SBVT advertising was limited to his appearance as an interview subject; he said he "did not participate in designing the questions asked of me, or in determining the placement, timing or volume of any SBVT advertising or communication." Cordier Aff. at 2. As a result, it appears that Kenneth Cordier's dual positions did not give him access to information about Bush-Cheney '04's "plans, projects, activities, or needs" and that he was not materially involved in decisions regarding the content or other aspects of Swift Boat Vets' television advertisements. *See* 11 C.F.R. § 109.21(d).

The investigation further established that neither SBVT nor Bush-Cheney '04 was involved with what appears to have been a local party committee event in Florida that was erroneously advertised as involving both SBVT and the Alachua Bush-Cheney Committee. In a declaration, Joseph Ponder, a Vietnam veteran who appeared in SBVT advertising as an interview subject, explains that he had agreed to appear at the rally in Alachua County, but states he was told that the event was a "'pro-U.S.A.' rally for veterans," unaffiliated with the Republican Party or Bush-Cheney '04. Ponder Decl. at 1. Further, he explains that his appearance, which he canceled prior to the event, "was never contemplated as being an official appearance on behalf of SBVT," that he was never

given authority to appear on behalf of SBVT, nor did his position grant any authority since he was not an SBVT officer or steering committee member. *Id.* at 1-2. Similarly, two affidavits from Bush-Cheney '04 staff, Brett Doster and Mandy Fletcher, the Executive Director and Political Director, respectively, of Bush-Cheney 04's Florida campaign, state that Bush-Cheney '04 did not fund, authorize, or otherwise encourage the organization of the Alachua County rally or the production of the related printed materials. Doster Decl. at 1-2; Fletcher Decl. at 1-2. Accordingly, the Commission decided to take no further action with respect to SBVT, and Bush-Cheney '04, Inc. and Salvatore Purpura, in his official capacity as treasurer, in connection with allegations about the making and receipt of coordinated in-kind contributions.

The complaint in MUR 5525 also alleged that the Republican Party, its officials, and candidates may have been involved in financing SBVT's activities. The Commission did not make any reason to believe findings based on these allegations because they were speculative and because the few facts cited by the complaint likely would not constitute a violation of the Act even if true. But, because the investigation of possible coordination between SBVT and Bush-Cheney '04 based on the findings described above may have revealed additional information about this event, the Commission took no action at that time with respect to the Republican Party respondents. Since no additional information was obtained during the investigation to suggest that any of the respondents coordinated with SBVT, the Commission decided to close its file with respect to the Alachua County Republican Party, the Republican National Committee and Bob Kjellander, in his official capacity as treasurer, George W. Bush, Dick Cheney, Karl Rove, and Kenneth Cordier